

**Florida Keys National Marine Sanctuary Advisory Council
Final Minutes - February 15, 2000**

Members Present

Wayne Blevins
Rob Bleser
John Brownlee
Virginia Cronk
Tom Davidson
Richard Grathwohl
Debra Harrison
David Hawtof

Tony Iarocci
Warren Johnson
Don Kincaid
Karen Lee
Duncan Mathewson
Ken Nedimyer
George Neugent
Deborah Shaw

Alternates Present

Sheri Lohr for Anita Schwessinger
Susan Mickey for Fran Decker

The meeting was called to order at 9:10 a.m.

Introduction of Members

Chairman Neugent stated that this is his first meeting as Chair and there are several new members, and he would like each person at the table to introduce him/herself and talk about what area they represent. The following people gave a brief biography and talked about their affiliation and reasons for their interest in the Sanctuary Advisory Council:

David Hawtof, retired physician from Key West, representing Citizen at Large - Lower Keys.
Tom Davidson, retired businessman from Key Largo, representing Recreational Fishing.
Virginia Cronk, teaches sociology in Key West, representing Education/Outreach.
Duncan Mathewson, a marine archeologist and an educator who lives on Little Torch Key, representing Submerged Cultural Resources.
Don Kincaid, an underwater photographer with a charter boat business in Key West, representing Diving - Lower Keys.
Deborah Shaw, a marine biologist with FKEC from Key Largo, representing Research/Monitoring.
Warren Johnson, National Vice President of the Southeast Region of the Propeller Club and a member of the National Board of Directors of the Navy League, from Little Torch Key, representing the Boating and Maritime Industry.
Karen Lee, from Islamorada, owns a mortgage business with her husband, representing Citizen at Large - Upper Keys.
John Brownlee, Senior Editor of Saltwater Sportsman magazine, from Islamorada, representing Charter Fishing - Sport Fishing.
Debbie Harrison with the World Wildlife Fund is from Marathon and represents Conservation & Environment.
Richard Grathwohl, from Marathon, representing Charter Fishing - Flats Guides.
Ken Nedimyer from Tavernier representing Commercial Fishing - Marine/Tropical.
Wayne Blevins from Key Largo, representing Tourism - Upper Keys
Sheri Lohr, alternate for Anita Schwessinger, from Key West, representing Tourism-Lower Keys.
Rob Bleser from Key Largo, representing Diving - Upper Keys.

Susan Mickey, alternate for Fran Decker, representing Citizen at Large - Middle Keys
Tony Iarocci from Grassy Key, Vice President of Monroe County Commercial Fishermen, Inc.,
representing Commercial Fishing - Shell/Scale

Staff and guests:

Bob Stone - Deputy in charge of NOAA enforcement, stationed in Marathon.
Bob Currul - Lt. in charge of the Sanctuary squad.
Billy Causey- Superintendent of FKNMS.
Anna Marie Hartman- FL Department of Environmental Protection
Ted Buettler, NOAA counsel.

Alternates and guests in the audience:

Martin Moe - Marine Biologist, writer and publisher, alternate for Virginia Cronk - representing
Education/Outreach.
Greg DiDomenico, Executive Director of Monroe County Commercial Fishermen, Inc. from Marathon,
alternate for Tony Iarocci, representing Commercial Fishing - Shell/Scale
John Hunt, Florida Fish & Wildlife Conservation Commission on behalf of Dr. Russell Nelson.

Chairman George Neugent stated he appreciates the honor of being elected Chair, and looks forward to working with Co-Chairs Debra Harrison and Warren Johnson, and the Sanctuary managers Mr. Causey and Ms. Cradick. He is the District 2 Monroe County Commissioner, and is the Local Elected Official representative. He lives in Marathon, his office is in Big Pine Key, and he said anyone is welcome to stop by and discuss County or Sanctuary Advisory Council issues. He extended his public appreciation for all the time and effort all the members put into the Sanctuary Advisory Council and said he appreciates all the time and effort by the Sanctuary Superintendent, Mr. Causey. He said he hopes to be able to continue with the progress that has been made by the previous SAC and he thinks that the continuing development of trust between the public and the Sanctuary is extremely vital, and something that we as Council members owe to the general public.

Approval of Minutes/Approval of Agenda

Upon motion by Debra Harrison, seconded by Karen Lee, the minutes of the December 7, 1999 meeting were approved as presented. Upon motion by Debra Harrison, seconded by Tom Davidson the agenda for today's meeting was approved.

Public Comment:

Steve Davidson presented data, which he worked with the University of South Florida Remote Sensing Lab to acquire. The two sets of data available on compact disc are aerial photographs and land set satellite data of the Florida Keys. If anyone is interested in obtaining these data sets, they are available free of charge, to be used only for scientific and education purposes, by contacting Mr. Davidson via e-mail at sed@webtv.net, or by phone at 305-293-6931.

Susan White introduced herself to the new Advisory Council members. She is the Marine Resources Manager with the Florida Keys National Wildlife Refuges. She gave a brief synopsis of her agency's function and jurisdiction, and distributed business cards.

H. T. Pontin - A copy of Mr. Pontin's written comments are attached.

Warren Johnson - A copy of Mr. Johnson's written presentation is attached.

Sanctuary Superintendent's Report - Billy Causey reported on the Everglades Coalition Meeting held in Naples in January. Eight water delivery projects were signed and approved during that meeting. These important projects will affect the quality of our waters in the Florida Keys. Mr. Causey announced that NOAA is currently taking action to elevate the Marine Sanctuaries Division to become equal to the Office of Coastal Resources Management. This is a major step for the Sanctuary within the National Ocean Service. As part of this action, Dan Basta is now the Chief of the National Sanctuary Program, replacing Stephanie Thornton. Mr. Causey also reported on the budget increase from 14 million dollars to 23 million, plus 3 million for construction costs for FY2000. Mr. Causey stated that FKNMS has requested that the FFWCC approve four additional Sanctuary officers as part of that budget. Mr. Causey also reported on the two buildings recently acquired by NOAA at Truman Annex in Key West; one will be renovated for the FKNMS Lower Region Operations Center, and the other will be an Interagency Visitors Center in conjunction with the Fish & Wildlife Service and the National Park Service. Mr. Causey also reported on the President's FY2001 budget, due to be released next week. He also announced the release of the National Academy of Public Administration Report, which resulted from the DeWitt John interviews and contains recommendations for National Marine Sanctuaries. When the report becomes public in approximately a month, he will make sure each SAC member receives a copy.

Mr. Causey announced that the Coral Reef Task Force will be meeting in Washington DC, March 2. He and Superintendent Dick Ring of the National Park Service will be making a presentation of the Tortugas 2000 project. He also reported that the Draft Supplemental Environment Impact Statement is scheduled to be completed the end of March.

Mr. Causey stated a resolution was passed at the October SAC meeting recommending staff and management of FKNMS take a position on personal watercraft issues. Mr. Causey has asked LCDR Dave Savage to take the Sanctuary team's lead over the personal watercraft issue, so he and the Upper Region team will staff the Personal Watercraft Working Group. It was decided to place emphasis on the Water Quality Working Group as well, to cultivate it to the level of the Tortugas 2000 Working Group. June Cradick has been staffing those meetings in Marathon, and Fritz Wettstein of the Lower Region FKNMS office will be working with Ms. Cradick and with Debra Harrison, Chair of the Water Quality Working Group, to help staff this group.

Karen Lee asked for clarification on amount of increased funding. She is not sure everyone understands that the amounts are for the nationwide program, and that money will be divided among the National Marine Sanctuaries around the country. Mr. Causey stated that the 14 million dollar budget is split between 12 National Marine Sanctuaries, and the 23 million for this year's budget is for all sites, and all Sanctuaries do not receive an equal share. Sheri Lohr asked on what basis the decisions are made. Mr. Causey explained the process which includes Leadership Team meetings to identify budget priorities.

Mr. Causey also commented on the importance of reviewing the SAC Charter, Section VI. Operation. (a copy of page 4 is attached). Anna Marie Hartman commented that anything the State receives is public record.

Debra Harrison commented she worked with Dan Basta as we were developing the Management Action Plan, and she really looks forward to his role with the National Marine Sanctuary Program. She also commented, on behalf of the Sanctuary Advisory Council, she would like to recognize the tremendous contribution that Jeff Benoit has made to our program; she does not believe personally that we would have State side to this Sanctuary if it had not been for the continuous education and efforts of Jeff Benoit in helping that occur. She said she would appreciate it very much if Mr. Causey could convey to Mr. Benoit this Sanctuary Advisory Council's appreciation for his long standing involvement in efforts to further the Sanctuary programs within the Department of Commerce. She also asked, regarding the U.S. Coral Reef Task Force, what time is the meeting, where will it be held, and will the public be able to attend. Mr. Causey replied that the meeting is going to be held March 2 in Washington DC in the main Commerce building, in the auditorium. The meeting starts at 8:30-9:00 a.m., the public is encouraged to attend, and involvement from representatives from the Sanctuary Advisory Council, and Working Group members is

encouraged. The Action Plan to carry out the President's Executive Order on coral reefs will be developed during that meeting. .

Ken Nedimyer commented that the Sanctuary Advisory Council wants to get things done, but the wheels of government turn slowly, and we need reassurance that things are happening. Mr. Causey said Mr. Nedimyer made an excellent point, and that the SAC Charter is not stifling individuals, pointing out the paragraph on "Conduct of Individual Members". Chairman Neugent commented that the SAC needs to pay close attention that they do not step out of the boundaries of what they can do as a group, but we never give up our First Amendment rights to express our views. Further discussion was held relating to the Charter, with Mr. Buettler commenting that the Charter is clear, reiterating that it certainly does not abridge the First Amendment, and recommended, as the SAC members review the Charter, to focus on the language in "Conduct of the Advisory Council as a Body".

Chairman Neugent thanked Mr. Causey, referring to the portion of his report on the Everglades Coalition Meeting in Naples. Chairman Neugent said we are very fortunate to have people attend such as Monroe County Commissioner Nora Williams and Mr. Mike Collins of the South Florida Management District who are extremely articulate and have the ability to convey what a lot of people here feel, in arenas and to audiences where it carries a lot of weight. Chairman Neugent commented that government does move slowly, and this can be extremely frustrating, especially to people in the private business sector, but it is important to recognize people who can speed up the process and have the ability to utilize their position and God given talents of articulation.

Department of Environmental Protection Report - Anna Marie Hartman stated that a visit by Florida Cabinet Aides to the Tortugas is planned for May. She also reported that the Tortugas 2000 item is on the Cabinet agenda for June 13; the Cabinet Aides meeting is the week before, June 6, and SAC members are welcome to attend. Ms. Hartman also reported that at the last legislative session money was put into the DEP budget to fund the Biscayne Bay Partnership Initiative, and Billy Causey and Fritz Wettstein attended their symposium in January. She also reported on legislative issues and the process created for presenting projects to the Legislature. She also stated that Bob Ballard is the State's representative on the Coral Reef Task Force, and she is his alternate.

Fritz Wettstein reported on recent meetings of the Lost Lobster Trap Working Group. He reported that verbal approval has been received from FEMA awarding the State with close to \$250,000 for trap and trap debris cleanup for this coming year. Mr. Wettstein said for a long-term solution, the Working Group is hopeful that the stone crab bill that was approved by the FWCC will be favorably approved by the Legislature which includes a \$25 fee to be used for trap retrieval after the end of the season. This would generate a "kitty" of money that would be used in storm years. Mr. Wettstein said the Working Group will be meeting again in March.

Debra Harrison said, regarding trap cleanup, she heard that the traps were not actually going to be removed, that they were going to be cut loose and allowed to scatter on the ocean floor. She said she hoped that is not correct, that the debris will be removed from the ocean. Mr. Wettstein replied that it depends on the location and, historically, there has been one approach at the end of the season, where the plastic and buoys are removed and are dismantled so they are no longer fishing and then left in the water. We are trying to reduce any impact of them being dropped on seagrasses or dropped on coral; we are trying to get as much of the debris out of the water, particularly lines and plastic parts that are not biodegradable. Ms. Harrison said a concern that was brought to her attention was that we are in violation of our laws. Mr. Wettstein replied that the proposal is not violating any laws. Ms. Harrison said she expected a much clearer answer to take back to people who raised this with her who are very concerned. Tony Iarocci said we need to create habitat in parts of Florida Bay, and he cannot see a better way than to put this utilization of a trap retrieval program and use some of the parts of these traps to create habitat. He said this program would have to be done under strict guidelines.

Mr. Causey replied there are several complex issues relating to trap cleanup. Hurricane storm events created the need to remove a considerable number of traps. Mr. Causey talked about the program of possibly moving the traps to areas where they can be properly disposed of, after the solid materials are removed. He said his big concern is with the way that it has been done in the past, the traps would be pulled up, the plastic removed, the lines cut, and then dropped back into the water. This could occur on hard bottom, on seagrass, or on very important habitat. At the last meeting of the Working Group, he became aware that not everyone that participated in the voluntary trap retrieval took their traps to the spots we had designated. He said he maintains, and he thinks law enforcement maintains, that once that buoy tag is taken off it is no longer a trap, so if a fisherman throws it back over the side, that is littering and that is against the Sanctuary regulations, and possibly State regulations. Mr. Causey stressed how important this is, they are not going to be put back in sensitive habitat. Mr. Iarocci said he agrees, but would like to utilize them as creating habitat in designated areas.

Ms. Harrison stated she was uncomfortable with the current discussion. She said she is much more in favor of designating certain areas as potential artificial reef sites. She said she thinks that this issue is something that needs to move forward, and something this Council can take a look at trying to advance both in terms of trap debris, as well as freighters and old battleships as dive attractions. She said she feels we may be taking a step backwards. We need to make sure that the Sanctuary's view is consistent with what we are requiring the public to do, and what fishermen are required to do. She said she understands we had a hurricane, but we don't leave litter around our neighborhoods, and we don't leave debris around our natural areas. She said she believes we need to be addressing in a similar fashion what we are going to do about the traps and the impact on the marine side, and she really hopes we end up with a solution which does not result in fast-tracking actions which will continue to degrade our environment rather than taking a holistic approach that may cost more, and may be more time consuming, but is the right thing to do.

George Neugent commented, not only did we have Hurricane Georges, we had Hurricane Irene, tropical storm Mitch, and other storms, and the commercial fishermen have really taken it on the chin and he thinks there needs to be some comprehensive effort on the part of commercial fishermen and also some aid and assistance from others. FEMA has earmarked some dollars, but it is only a drop in the bucket of what would be needed to address this particular issue. Chairman Neugent said he sees some clear benefits of transporting the traps when they become litter to designated areas, but is not sure how you would enforce that particular situation, and it would require some type of incentive to offset the cost that the commercial fishermen don't have the money in their pockets for. Mr. Causey commented on the brainstorming session which resulted in several suggestions at the Working Group meeting which has representation from FKNMS, commercial fishermen, NMFS law enforcement, and the Florida Fish and Wildlife Conservation Commission.

Chairman Neugent offered assistance from the Monroe County Commission, stating that the commercial fishermen are a very valuable asset to this County and this community. Mr. Grathwohl reported that at the Working Group meetings he has attended, they are trying to establish guidelines where it would not be felony after a storm event to remove someone else's traps. Mr. Grathwohl invited Chairman Neugent to attend the Lost Lobster Trap Working Group meetings.

Sheri Lohr talked about the idea of placing the abandoned traps as artificial reefs, stating that possibly the commercial fishermen could use a similar process to develop a procedure to approve a site for trap piles, as was used to obtain approval to sink the ship in Key West.

Bob Bleser moved to place the lost trap issue on a future agenda under Unfinished Business. The motion was seconded by Wayne Blevins, and upon vote, passed unanimously.

Florida Fish & Wildlife Conservation Commission Report - John Hunt reported on projects relating to the stone crab rules, one would provide funds for trap retrieval and another would slowly reduce the number of stone crab traps within the entire fishery, which includes the FKNMS. He reported that the agency has scheduled a public workshop on Tuesday, February 22 from 1-4 p.m. at Marathon Government

Center. This public workshop is concerned with the development of the Commission's marine life limited entry report to the Governor and Legislature. He also announced that there is going to be a public hearing in Fort Myers on March 7.

Sanctuary Enforcement Reports

Florida Fish and Wildlife Conservation Commission - Bob Currul talked about the FKNMS/Florida Marine Patrol enforcement structure. He also reported on Sanctuary cases and statistics (enforcement statistics are attached). He introduced Mr. Bob Stone, Mr. Dan O'Brien, and Ms. Rachene Callahan, Enforcement Technician, commending her for the wonderful job she has done. Lt. Currul gave a slide presentation depicting major and minor vessel groundings, representing coral damage and scars in seagrass. Lt. Currul reported that a large percentage of the groundings are being caused by people coming from other parts of Florida and the United States, and most are a result of negligence. He also commented on a letter circulated in 1996 to the marine salvage industry in the Florida Keys, requesting that salvors contact the Florida Marine Patrol when responding to a grounding. Lt. Currul said most of the marine salvors report to us regularly and are environmentally friendly; however, there are a few that do not. So, they are considering either regulations or permitting to address the procedure outlined in the letter.

Mr. Causey commended Lt. Currul and his team for the incredible level of dedication. Chairman Neugent commented that it is a perfect "segway" into the seagrass presentation which follows.

Seagrass Recovery and Restoration

Susan White reported on the purpose and history of the Seagrass Outreach Partnership. She talked about the importance of healthy seagrass beds, and announced that March is Seagrass Awareness Month and invited the SAC members to a kickoff reception hosted by the Partnership on March 2.

Dr. Jud Kenworthy, National Center for Coastal and Ocean Science stated he is going to talk about "science for solutions", which would be developing scientific programs that apply in their design to address and fix problems regarding the conservation and restoration of seagrasses. He said, hopefully, at the end of his talk, you will see that what we really to emphasize is that we need to work on the front end, and that is prevention. Dr. Kenworthy gave a slide presentation which included information about seagrasses in the Sanctuary, the species that are here, the problems that are here, and what NOAA is doing to try and fix those problems. The slides also depicted large vessel groundings which left scars in the seagrass. He talked about NOAA research programs, gave examples of different methods i.e. an experiment with perching bird stakes in prop scars; a project with natural fertilization placed with a machine, a seagrass planting machine, and filling of the scars. Dr. Kenworthy reported on the length of time it takes for restoration, and the cost to repair seagrass beds. He also talked about efforts to try to prevent the damage from happening in the first place.

Karen Lee asked about the current link between fines for specific grounding incidents and restoration. Lt. Currul explained that they are not fines, but the collection of damage fees, and talked about the damage action and civil penalty procedures. Ms. Lee asked if there was any way that the party responsible for the damage from a grounding could be required to do some type of community service related to the restoration. Mr. Buettler, NOAA counsel, said that his office tried to be more creative and worked on a lot of cases where it was recommended the party responsible do community service, but they did not have a lot of success. He said there may be some ways and options yet to be explored, but to keep your expectations realistic.

Wayne Blevins said it would be helpful, when someone asks us why is this grass so important, what would the answer be? Dr. Kenworthy replied, it is essential fish and shellfish habitat; it is a big sediment stabilizer; it is the way nutrients are filtered through the system; it keeps the water clean and gives it all the kinds of properties it needs to make it a tremendous biological resource.

Further discussion included the affects of fish on the seagrass; the value of filling deep prop scars; blowholes and natural depressions; and the importance of marking shallow water areas.

Discussion was also held relating to enforcement with Lt. Currul talking about the tremendous number of issues they respond to, that enforcement is overloaded with things to do, but they do address everything that is brought to their attention.

Chairman Neugent asked Dr. Kenworthy if it would be advantageous to look into the possibility of the rental boat operators implementing within their fleet jet driven boats which would be less damaging than prop boats. Dr. Kenworthy said that this is a misconception. There is documentation that jet-propulsion craft can create scars and damage as can a power motorboat. Chairman Neugent said, one of the things he became aware of as a member of the Marine Port Advisory Committee, is that one of the big defenses for the personal watercraft industry has been that they are much more environmentally safe and non-destructive to the seaagrass bottoms, and if we can document this, it may be ammunition to point out that there is some environmental impact to the sea bottoms by personal watercraft. Mr. Grathwohl said that jet boats make him cringe, because they are just a large "jetski"; and we need to get people away from the attitude that they can be free in the Keys and do anything they want. Discussion was held regarding the importance of education. Mr. Causey stated that Lt. Currul will be at the Miami Boat Show at the FKNMS booth which is a good location for education and outreach.

Sanctuary Enforcement Reports - continued **National Marine Fisheries Service - Bob Stone, Dan O'Brien, Rachene Callahan**

Mr. Bob Stone said he was asked by the Special Agent in charge, Mr. Gene Proulx, to publicly compliment Billy Causey for his support and assistance. Mr. Stone said NMFS has some significant activities in the area; one of the efforts was the dolphin rescue; they were supported in that effort by the Coast Guard and the Florida Fish & Wildlife Conservation Commission. Mr. Stone reported on enforcement operations they have been involved in relating to fish monitoring. He introduced Mr. Dan O'Brien, the Assistant Special Agent in Charge responsible for the west coast of Florida and the Florida Keys and Ms. Rachene Callahan, their Enforcement Technician from the St. Petersburg regional office. Ms. Callahan talked about the procedure for tracing violations and collecting fines. Mr. Iarocci commended NMFS enforcement personnel, commenting on the close working relationship the commercial fishermen have had with them this year. He asked Mr. Stone if he has seen a decline in fish trapping and fishing violations within the past year. Mr. Stone said he has seen a decline in violations within the Sanctuary. Mr. Iarocci said he thinks we will need more enforcement when the reserve is established in the Tortugas. Mr. Causey added that out of 177 cases this year, Ms. Callahan has been successful in collecting in 164 of them.

Karen Lee said the obvious presence of more law enforcement will be very effective. She suggested that an outreach campaign aimed toward people in specific geographic locations in Florida that are doing more of the grounding offenses. Ms. Lee said maybe there would be more of an impact if people understood there is a penalty associated with committing these acts. Mr. Causey said that Ms. Lee made a very good point, that geographic targeting would be very helpful. Dr. Hawtof suggested a press release on groundings might be helpful. Mr. Blevins suggested providing this information at the point where people license their boat. Chairman Neugent asked, and Ms. Lee responded, there is an Education and Outreach Working Group to address these issues. Ms. White said everyone is welcome to participate in the Seagrass Outreach Partnership which addresses a lot of the issues discussed. Cheva Heck, FKNMS Public Outreach Specialist, stated that the central message when doing public outreach is that it does carry a penalty. She also reported that Lt. Currul, Mary Tagliareni and she have been talking about doing a targeted campaign towards the people who are committing the groundings, telling them it is serious and they are going to get fined if they run aground and damage our resources.

Unfinished Business

Area to Be Avoided Changes and Establishment of Vessel Traffic Separation Schemes

Warren Johnson introduced the panel, Mr. Ed Crusoe, Master Mariner; Ms. Lindy Johnson and Mr. Ole Varmer from NOAA; and Mr. Larry Bowling and CMDR Steve Hanewich from the US Coast Guard 7th District. Mr. Johnson said his point of contact with the US Coast Guard was Mr. Ed LaRue from Washington, DC who was unable to attend this meeting. Mr. Johnson reviewed the background of this issue, stating that it was part of a resolution passed by the SAC in April, 1998.

Ms. Lindy Johnson presented information relating to the international aspects regarding regulating maritime traffic. (A copy of her presentation is attached). Following her presentation on international aspects, Ms. Johnson reviewed the process in the development of the Area To Be Avoided (ATBA) which is included in the legislation that created the Florida Keys National Marine Sanctuary. She said the ATBA can be amended, but it would involve a laborious international process and any proposal would have to include local justification that any change to the ATBA or establishment of a ship separation traffic scheme would not adversely affect the coral reef. Ms. Johnson then turned the floor over to Mr. Varmer and the representatives from the US Coast Guard to talk about the domestic considerations that need to be taken into account to go forward with the process.

Mr. Ole Varmer stated the Congress incorporated the ATBA established by the International Maritime Organization (IMO) into the legislation of the Florida Keys National Marine Sanctuary Protection Act. NOAA and the Coast Guard have the authority to modify the ATBA through regulations. Mr. Varmer described the elements of the process required domestically to modify the regulations, which would include developing a Supplemental Environmental Impact Statement. Mr. Varmer said if the process to shave off the "elbow" of the ATBA were to proceed, the regulations would need to be changed, and the Federal Register notice amended. The justification for this process would flow out of a study that the US Coast Guard would have to do under the Port Safety Act.

CMDR Steve Hanewich stated that a study by the Coast Guard would be just for the establishment of the traffic separation scheme. Mr. Hanewich said the Ports and Waterways Safety Act requires a port access routing study be performed for any proposed establishment of a traffic separation scheme, which would involve the publishing of a Federal Register notice and solicitation of data from the potential regulating community, shipping industry, and others. He said before the Coast Guard would undertake an effort to put an initiative together for a study, they would need some initial compelling rationale with examples of incidents, near misses, or some other data which would give rise to them wanting to move forward with the proposal. He said they would also try to build a consensus among the regulated industry, in this case the shipping industry, trustees of the natural resources such as the Sanctuary and the Department of the Interior, and other government agencies. He stated that the Coast Guard's position is neutral at this time, but if the compelling rationale and consensus mentioned were presented, they would consider a study.

Mr. Larry Bowling, Commanding Officer of the Marine Safety Office in Miami, reviewed his area of responsibility for marine safety operations in the Coast Guard. He said he was here at the request of his district to learn more about the proposal being discussed. Mr. Bowling stated that the Coast Guard would rather prevent casualties than wait for something to happen and put regulations in place after they occur. He said he is interested in hearing more and beginning a dialogue to find out the justification and rationale for making improvements to the safety of navigation. Mr. Bowling said that anytime there are SAC agenda items where the Coast Guard may be able to provide input or clarification, to contact him. If he is not available, there are three people attached to his office and work at the Coast Guard station in Marathon.

Mr. Ed Crusoe described the problems associated with the ATBA, utilizing charts. He talked about the difficulty navigating the area experienced by cruise ships, lighter carriers, and large freighters, mentioning that he has discussed these problems with captains of these ships.

Ms. Johnson said she is familiar with everything Mr. Crusoe is discussing but has not heard of any problem in the area. What is needed is some hard and fast evidence. Ms. Johnson said evidence would have to be gathered from the mariners and sent to the Coast Guard. Mr. Crusoe said he does not see how it can be said there is not a problem, and he doesn't think you should wait for a major collision to do something about it. Warren Johnson said, as far as input from the maritime industry, the Propeller Clubs are the merchant marine, they are the industry. Mr. Johnson said what is being discussed today was presented in 1998. The Coast Guard received it, Dr. Baker received it, along with his input; and the resolution was passed in April, 1998.

Mr. Bowling said several of the documents from the Propeller Club lack specificity. It talks about a proposed establishment of a traffic separation scheme or the shaving of the ATBA would reduce the threat of groundings, but it does not give the level of detail needed. More data gathering needs to be done.

Mr. Varmer said he agrees it would be nice to identify the problem before there actually is a collision, and gave examples of issues at other National Marine Sanctuaries, where two different vessel traffic studies were done, that built the record that he and Ms. Johnson needed to go forth. We need to be more conclusionary in order to build a record, and everything needs to tie together, the domestic and international law. What we need to do is create a justification and recognize that we are getting people to change something. Mr. Varmer said the lawyers aren't going to be the ones deciding whether there is a problem or need for a change. He said he thinks a vessel traffic study needs to be done to get the data to verify the conclusions. Considerable discussion was held relating to identifying the problem and justification, with the SAC members concurring that a traffic study should be done.

Ms. Johnson stated there is a whole suite of measures that the IMO has before it, and we don't have a good idea of what is happening out there except for the information provided here. If a study is done it might show that shaving off the "elbow" and adding a traffic separation scheme is not the best way to go; it may be some other combination. Ms. Johnson said, whatever the combination is that is best for the Sanctuary, you can count on NOAA advocating that. She said she wanted to plea with the group to keep an open mind, that a study may be possible, but there may be other alternatives and combinations of things that need to be looked at.

Sheri Lohr moved that the Sanctuary Advisory Council request that Mr. Causey explore with the US Coast Guard, and any other concerned or appropriate agencies, the possibility of doing a study to determine the best method for defining, and as necessary, resolving the problem of the Area to Be Avoided. The motion was seconded by Warren Johnson. Upon vote, the motion passed unanimously.

Working Group Reports

Chairman Neugent passed around a sign up sheet, requesting that each SAC member sign up for at least one Working Group.

Artificial Reefs - Sheri Lohr reported that a lot of work has taken place on the Key West artificial reef project, and that a Working Group meeting will be scheduled within the next two to three months to review the progress of the project.

Personal Watercraft - Karen Lee and Dave Savage talked about renewed emphasis on this Working Group, reporting that a meeting will be held in Key Largo within the next two weeks.

Tortugas Ecological Reserve - Debra Harrison reported that the Working Group will plan a meeting prior to the Governor and Cabinet Aides meetings scheduled for June regarding representation there. She also reported that the DSEIS for Tortugas 2000 will be released soon. Ms. Harrison and Mr. Causey reported on the public hearing process and gave a general overview of upcoming meetings (no specific dates have been set).

Water Quality Working Group - Debra Harrison presented four resolutions which were endorsed by the Working Group at its January 28, 2000 meeting, stating that they are to specifically take action relating to federal funding opportunities for water quality improvements in the Florida Keys.

Ted Buettler pointed out that the resolutions encourage Congress to take action, reminding SAC members that they should be requesting the FKNMS manager's support, and referred to page 4, 2(a) of the Sanctuary Advisory Council Charter. Ms. Harrison asked if FKNMS staff support at the Working Group meetings could include legal guidance. Mr. Causey said the FKNMS provides staff support, but not legal support at the Working Group meetings. Ms. Harrison said she would like to have the resolutions approved in concept and she and staff can work with Mr. Buettler on the language so it is in accordance with the Charter.

Karen Lee moved approval of the resolutions proposed by the Water Quality Working Group subject to those resolutions being modified only in their wording to be in compliance with the Sanctuary Advisory Council Charter. The motion was seconded by Tony Iarocci. Wayne Blevins expressed his concern regarding the resolution relating to the C.A.R.A. bill, commenting "Does it mean we don't want oil drilling down here but we want the money?" Ms. Lee moved an amendment to the motion to add language to the resolution that this is not be construed to show support or provide incentives for additional oil or gas leases. The motion was seconded by Mr. Iarocci.

Ken Nedimyer expressed his concerns relating to not having enough time to review the resolutions, stating that he does not necessarily disagree with the content, just the process. Discussion was held relating to some members agreeing with some, but not necessarily all of the resolutions. Ms. Harrison explained the importance of proceeding as soon as possible to take advantage of current federal legislation and funding opportunities.

Roll call vote: Hawtof - yes; Cronk - no; Mathewson - no; Kincaid - no; Shaw - yes; Lee - yes; Brownlee - yes; Grathwohl - yes; Nedimyer - yes; Blevins - yes; Lohr - no; Bleser - no; Mickey - yes; Iarocci - yes

The motion passed by majority vote. Chairman Neugent, Warren Johnson, and Tom Davidson were absent at the time of the vote.

The following modified resolutions are attached:

RESOLUTION 00-1

**RESOLUTION OF THE FLORIDA KEYS NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL REQUESTING THAT THE SANCTUARY MANAGERS
SUPPORT THE ESTABLISHMENT OF A NON-TRANSPORTATION TOLL ON
U.S. HIGHWAY 1 TO ASSIST IN WATER QUALITY IMPROVEMENT**

RESOLUTION 00-2

**A RESOLUTION BY THE FLORIDA KEYS NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL REQUESTING SANCTUARY MANAGERS TO SUPPORT
PASSAGE OF THE CONSERVATION AND REINVESTMENT ACT**

RESOLUTION 00-3

**A RESOLUTION BY THE FLORIDA KEYS NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL REQUESTING THAT THE SANCTUARY MANAGERS
SUPPORT THE PASSAGE OF H.R. 673**

RESOLUTION 00-4
A RESOLUTION OF THE FLORIDA KEYS NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL REQUESTING THAT THE SANCTUARY MANAGERS
SUPPORT INCLUSION OF THE FLORIDA KEYS IN THE COMPREHENSIVE PLAN
FOR THE RESTORATION OF THE SOUTH FLORIDA ECOSYSTEM

Ms. Harrison commented that a public service television program about wastewater improvements, entitled "Monroe County--Our Water, Our Way of Life" will be aired on various channels.

Mr. Iarocci commented that all new members should review the excellent Tortugas 2000 packet. He also referred to two newspaper articles which reflect both sides of the ecological reserve issue (copies attached).

Public Comment

H. T. Pontin said that everyone's rights to navigation are based on treaties, not customary law which people here would like you to believe. He said he has wasted a lot of time at these Council meetings and there has only been one motion made, by Tony Iarocci, to answer his questions, and they still haven't been answered. Mr. Pontin said this morning he asked what you intend to do about illegal regulations in the Sanctuary Management Plan and there was no motion, and no answer. He said he also tried to bring up a question regarding the Dry Tortugas jurisdiction, and that question has never been answered. Mr. Pontin also said he heard a lot about seagrass today, and said he hasn't heard anything different, that with State law you have to prove intent if someone runs aground, and therefore it would be criminal. Federal law says that it is civil, that intent does not need to be proven; but the money has to be spent for restoration, and the State's doesn't. Mr. Pontin said they have already thrown 3 million bucks of one of the fines away. Mr. Pontin also said he received a lot of misinformation; one item was from the Coast Guard--that we have signed a treaty of law of the sea, as has China. He said he went to the UN, and the United States has not signed a treaty. Mr. Pontin said he does not know what public input is for if nothing is looked at and motions are not made. So, he wishes the Sanctuary Advisory Council good luck, and said goodbye and thank you.

Ms. Harrison said, on behalf of the Sanctuary Advisory Council, that she knows Mr. Pontin has a high level of frustration with the SAC, but she hopes he will reconsider and continue to participate in the Sanctuary process. She told Mr. Pontin he represents a voice of individuals that needs to be heard in this forum.

New Business:

Dolphin Ecology Project - Laura Engleby presented the history and mission of the project. She reported that the project is non-profit and has established partnerships with the FKNMS, The Nature Conservancy, and Duke University Marine Lab. Their efforts encompass research, monitoring, education, and volunteer components. Ms. Engleby stated that their mission is to support research and education on the relationship between dolphins and the environment, and to promote restoration and conservation of marine habitat. Her slide presentation included information on research and education objectives, accomplishments, and statistics.

Dolphin Watch Operations Issues

Captain Sheri Sullenger and Mr. Tom Halford - Florida Keys Wild Dolphin Alliance

Ms. Sullenger said the Florida Keys Wild Dolphin Alliance is looking at the issue of concern regarding dolphins, and interested in working with the National Marine Fisheries Service to make sure they are operating within the guidelines to minimize any impact on the dolphins. She distributed an information sheet on the Alliance. The Alliance was formed to protect dolphins and their habitat and their mission is to provide the opportunity for people to continue to observe wild dolphins in their natural habitat in an educated and responsible manner to ensure that the dolphins are not harassed as defined by the Marine

Mammal Protection Act and NOAA's Marine Mammal Viewing Guidelines. She reported that a NOAA enforcement officer will be at their next meeting to look at their charter which addresses dolphin encounter trips, to make sure they are following the guidelines of the Marine Mammal Protection Act.

Mr. Brownlee asked if the group does eco-tours to take people to swim with the Dolphins. Ms. Sullenger said there have been times in the past they have taken people to swim with dolphins. At this time, as they are evolving as an Alliance, they no longer promote any of their trips as dolphin swim encounters. They have taken the direction the last six months that if anyone calls and asks for a dolphin swim encounter, they refer them to a captive dolphin facility. There are times they have people in the water and dolphins will approach, but their goal is not to take people out to swim with them. Mr. Halford said, in the past, some of their agents who do bookings have at times been overzealous to try and sell tickets, and they have told customers they can swim with dolphins. One reason they formed the Alliance is that they realized this is a hot issue, and they can do their business without doing that. He said, in his case, he offers a family oriented trip, to see the dolphins in the wild and then leave them and go on to different activities.

Ms. Harrison asked if the Dolphin Alliance is a non-profit group. Ms. Sullenger said they are planning on moving toward establishing as a non-profit in the next year. Mr. Halford pointed out that he has heard of all the problems of feeding activity going on in the Sarasota area, and Key West has been named in literature. He said he and Ms. Sullenger are out on the water off Key West every day, and they have never seen, either on a recreational or professional level, one person ever feed a dolphin.

Jeannie Drevenak & Trevor Spradlin
NOAA Office of Protected Resources, National Marine Fisheries Service

Mr. Spradlin distributed a NOAA/NMFS position paper, "Interactions Between the Public and Wild Dolphins" (copy attached). He said he was encouraged to hear that feeding is not a problem here, but NMFS has gotten reports and heard rumors that feeding has been a component of tourist trips in the Keys. The phenomenon of swimming with wild dolphins has been increasing over the past decade. The nature of these swim encounters involves approaching marine mammals, and some of these trips in Florida do have a feeding component. NMFS has had a regulation that prohibits feeding of wild marine mammals since the early 1990's. Mr. Spradlin gave a slide presentation relating to the concern with people interacting with wild dolphins, stating that they are not opposed to people viewing wild marine mammals, in fact they encourage passive observation in their natural habitat. Mr. Spradlin said, with eco-tourism, there is a fine line between responsible and irresponsible tourism. He also said they are very concerned with close approach, feeding, and encroaching on the dolphin habitat. He reviewed the regulations, including a definition of harassment. He reported that there are specific guidelines which include to stay 50 yards away from the dolphins, use binoculars and telephoto lenses to view the animal, never feed them, and stay aboard the vessel. The presentation included "Harmful Effects of Feeding Wild Dolphins", with Mr. Spradlin commenting that feeding any wild animal is dangerous, and he gave examples of incidents.

Mr. Spradlin also reported that NMFS has been working very closely with their office of law enforcement on an education and outreach campaign to teach the public about being responsible when dolphin viewing. He said the message is universal, that this issue is a nationwide concern. Mr. Spradlin talked about efforts to achieve their outreach and education goals by forming partnerships with protection groups, tour groups, and Chambers of Commerce.

Mr. Causey said the FKNMS wants the SAC to be fully informed on this issue; that in the past we have been reactionary in our approaches, and here we are trying to be proactive and present this issue to you so you can address the concerns you have heard. He said this is a national issue of concern which has been merging in the Keys, and he was pleased when Ms. Lohr brought this issue up at a previous SAC meeting. Karen Lee commented she has seen feeding of dolphins in the Upper Keys from fishing boats. Mr. Brownlee said that this is an enforcement problem and he is not clear why the SAC needs to address this issue. Mr. Causey said it is because the SAC members are a voice in the community, and people in the community will ask your opinions. Ms. Lohr commented about overlapping jurisdictions and interpreting

regulations, stating that anything to do with marine life within the Sanctuary is of concern to the SAC. Mr. Kincaid commented that he gets questions from a lot of people about a lot of things discussed at SAC meetings, and he thinks Mr. Brownlee will find the this information is very helpful in giving informed answers to his constituents.

Mr. Halford and Ms. Sullenger made further comments relating to forming a self-regulating type of alliance; involving other agencies; making sure they are within NMFS guidelines; and addressing issues other than economic issues. Mr. Bleser commented he appreciates the efforts of the Alliance to be self-policing. Mr. Blevins commented he appreciates the education on this issue, and talked about the current popularity of whale watching on the west coast, where this activity seems to be driving the whales out of their migratory paths and further out to sea.

Ms. Sullenger commented that the Alliance cares immensely about the habitat of the dolphins as well as the ecosystem as a whole, and they are strictly against feeding dolphins, and would report any such activity to the appropriate government agency. Mr. Halford commented about educating their customers, that they get a lot of tourists from other parts of Florida, who can return home and spread the word.

Mr. Dan O'Brien stated that this issue regarding wild dolphins is a parallel issue to that of the seagrass discussion, when people run aground. He said the biggest problem that NMFS law enforcement faces is that the people who come to the Keys in their own boats, or rent boats, are not educated on these issues, and it is very difficult to capture that audience. Mr. O'Brien gave examples of complaints his agency has followed up on, and gave suggestions for educating visitors i.e. public service announcements for television. Mr. O'Brien said the SAC members can call his office with complaints at 941-359-3920, the local number is 305-743-3110, and the hotline number is 1-800-DIAL-FMP.

Jeannie Drevenak commented that Mr. Causey's advise to take a proactive approach is very admirable, and a wise decision. She said that NMFS has watched these types of activities in other parts of the country, and once they are underway they are extremely difficult to get a handle on. It is best to address the problem before you have a very bad problem later. Ms. Drevenak said she thinks the Florida Keys Wild Dolphin Alliance should be commended for trying to abide by the NMFS guidelines.

Items for Next Agenda

Debra Harrison requested that anyone who has suggested items for the next meeting agenda, to please contact June Cradick at least two weeks prior to the April 18, 2000 Sanctuary Advisory Council meeting.

The meeting was adjourned at 4:32 p.m.